

FILED  
DEC 23 2009  
  
Clerk

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH DAKOTA  
SOUTHERN DIVISION

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FIRST DAKOTA NATIONAL BANK,

CIV. 08-4167

Plaintiff,

vs.

FIRST NATIONAL BANK OF PLAINVIEW,

Defendant.

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STIPULATION FOR  
PROTECTIVE ORDER  
AND ORDER

COME NOW the undersigned, and hereby stipulate and agree to the following protective order:

1. Pursuant to D.S.D. CIV. L.R. 5, the parties agree that the vast majority of the several thousand pages of internal corporate financial documents at issue in this case and inspected by counsel are considered proprietary and confidential involving the parties' bank customers and their private personal or business financial information. Given the volume of confidential documents involved and the lack of viable alternatives to producing the same without substantial undue burden and expense, as well as to comply with D.S.D. CIV. L.R. 8.1, the parties hereby stipulate and agree that all loan documents disclosed by Plaintiff First Dakota National Bank (FDNB) or Defendant First National Bank of Plainview (FNPB) that are designated and stamped "CONFIDENTIAL" shall be revealed only as provided herein. By entering this Protective Order, the Court does not intend to create any presumption with regard to actual confidentiality of any material, or to alter the normal burden of proof necessary for obtaining a protective order from the Court.

2. A party's attorney may distribute or share documents designated as CONFIDENTIAL with the following categories of persons and no other, except by further order of the Court, after the attorney has received from the person a signed agreement that he or she is bound by the terms of the Protective Order:

- a. The parties in this case;
- b. any person or witness consulted by a party's representative or attorneys who may make use of the information for the benefit of a party in this case;
- c. members of the legal support staff of a party's attorney's office;
- d. consultants and experts retained by a party's attorney to assist in the evaluation, preparation, or testimony in this case;
- e. insurers, reinsurers, auditors, accountants, etc., to whom the parties or their attorneys have a statutory or contractual obligation to transmit information or report concerning this action.

3. If any party files documents designated as CONFIDENTIAL with the Court, that party shall file such documents in a sealed envelope with the following language on the envelope: "The documents contained herein are confidential and have been filed under seal by the Court pursuant to a Protective Order." No documents so filed under seal shall be made available to third parties or the public except by further order of this Court.

4. If any person is required to produce documents designated as Confidential pursuant to subpoena, court order, or other legal process, that person shall give prompt written notice of such event to FDNB and FNBP, who shall object to its production, unless providing notice is prohibited by law. Nothing herein shall be construed as requiring the party to challenge or appeal any order requiring production of documents designated as CONFIDENTIAL or to subject itself to any penalty for noncompliance with any legal process.

5. Nothing herein shall be deemed to limit any party's rights to discovery in connection with this action, or to restrict the prosecution, defense, or settlement of this action.

6. The provisions of this Order shall not terminate at the conclusions of these actions. Within one hundred twenty (120) days after final conclusions of all aspects of this civil action, all documents designated as CONFIDENTIAL (other than exhibits of record) shall be returned to FDNB and FNBP, or at FDNB or FNBP's option, destroyed, except that counsel for the parties shall be permitted to retain a copy of such documents designated CONFIDENTIAL.

This Order may be modified by the Court or upon motion for good cause shown.

Dated this 16<sup>th</sup> day of July, 2009.



Steven K. Huff, SDBA #3097  
Johnson, Miner, Marlow, Woodward & Huff, Prof. LLC  
200 W. Third St.  
PO Box 667  
Yankton, SD 57078  
Telephone: 605-665-5009  
Facsimile: 605-665-4788  
E-Mail: [steve@jmmwh.com](mailto:steve@jmmwh.com)  
Attorneys for Plaintiff

Dated this 17 day of July, 2009.



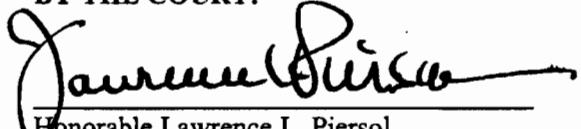
Thomas M. Frankman  
Davenport, Evans, Hurwitz & Smith, LLP  
206 W. 14<sup>th</sup> Street  
PO Box 1030  
Sioux Falls, SD 57101  
(605) 336-2880  
Attorneys for Defendant

**ORDER**

The Court having reviewed the foregoing Stipulation For Protective Order of the parties, the pleadings, and finding good cause for the same, it is hereby **ORDERED, ADJUDGED AND DECREED** that the Stipulation is hereby adopted as set forth herein..

Dated this 23<sup>rd</sup> day of ~~December~~, 2009.

BY THE COURT:

  
Honorable Lawrence L. Piersol

ATTEST:

Joseph Haas  
Clerk of Courts

Jackie Meseckner  
Deputy

(SEAL)